

AMENDED IN SENATE MAY 5, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1574**

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**Introduced by Assembly Member Pan**

January 30, 2014

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An act to add ~~Section 10354 to the Public Contract~~ *Section 19138 to the Government Code*, relating to ~~public~~ *personal services* contracts.

LEGISLATIVE COUNSEL'S DIGEST

AB 1574, as amended, Pan. ~~Service contracts: payment guarantees.~~  
*Personal services contracts: prohibitions.*

*The California Constitution establishes that the civil service includes every officer and employee of the state, except as otherwise provided in the California Constitution, and requires civil service appointment to be made under a general system based on merit ascertained by competitive examination.*

*The State Civil Service Act establishes standards for the use of personal services contracts by state agencies and authorizes personal services contracts when prescribed conditions are met.*

Existing law imposes various requirements with respect to contracts, including amendments, entered into by any state agency for services to be rendered to the state, whether or not the services involve the furnishing or use of equipment, materials, or supplies, or are performed by an independent contractor.

This bill would prohibit a state agency from entering into a *personal services* contract with specified provisions, including a contract that guarantees payment for services not provided.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     *SECTION 1. Section 19138 is added to the Government Code,*  
2     *to read:*

3     19138. (a) *A state agency shall not enter into a personal*  
4     *services contract that guarantees payment for services not*  
5     *provided. A personal services contract for the acquisition of goods*  
6     *and services shall not unduly restrict a state agency from taking*  
7     *actions in the public interest.*

8     (b) *A personal services contract shall not do any of the*  
9     *following:*

10    (1) *Provide for guaranteed occupancy rates for private prisons,*  
11    *dormitories, or any other contracted facility.*

12    (2) *Prohibit a state agency from maintaining, improving, or*  
13    *building public infrastructure.*

14    (3) *Penalize a state agency if a contractor loses revenue as a*  
15    *result of natural or man-made emergencies, including acts of*  
16    *terrorism or acts of nature.*

17    (4) *Allow for an increase in fees or charges without approval*  
18    *by the state agency.*

19    (5) *Allow for an increase in fees or charges to be made in a*  
20    *nonpublic manner.*

21    ~~SECTION 1. Section 10354 is added to the Public Contract~~  
22    ~~Code, to read:~~

23    ~~10354. (a) A state agency shall not enter into a contract that~~  
24    ~~guarantees payment for services not provided. A contract for the~~  
25    ~~acquisition of goods and services shall not unduly restrict a state~~  
26    ~~agency from taking actions in the public interest and shall not~~  
27    ~~unfairly place the burden of risk on taxpayers.~~

28    ~~(b) A contract for services shall not do any of the following:~~

29    ~~(1) Provide for guaranteed occupancy rates for private prisons,~~  
30    ~~dormitories, or any other contracted facility.~~

31    ~~(2) Prohibit a state agency from maintaining, improving, or~~  
32    ~~building public infrastructure.~~

33    ~~(3) Penalize a state agency if a contractor loses revenue as a~~  
34    ~~result of natural or man-made emergencies, including acts of~~  
35    ~~terrorism or acts of nature.~~

36    ~~(4) Allow for an increase in fees or charges without approval~~  
37    ~~by the state agency.~~

- 1     ~~(5) Allow for an increase in fees or charges to be made in a~~
- 2     ~~nonpublic manner.~~

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